

UTILITIES DIVISION[199]

Adopted and Filed

Rule making related to review of rules

The Utilities Board hereby amends Chapter 31, “Access to Affiliate Records, Requirements for Annual Filings, and Asset and Service Transfers,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 476.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 476.72 and 476.74.

Purpose and Summary

The Board is conducting a comprehensive review of its administrative rules in accordance with Iowa Code section 17A.7(2). The Board initiated this rule making to identify and update provisions that are outdated, inconsistent, or incompatible with statutes and other rules.

The Board issued an order on November 21, 2022, adopting the amendments. The order is available on the Board’s electronic filing system, efs.iowa.gov, under RMU-2021-0031.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 1, 2022, as **ARC 6339C**. A public hearing was held on June 23, 2022, at 10 a.m. in the Board Hearing Room, 1375 East Court Avenue, Des Moines, Iowa.

Representatives from the Office of the Consumer Advocate (OCA), a division of the Iowa Department of Justice; Interstate Power and Light Company (IPL); MidAmerican Energy Company (MidAmerican); and Iowa-American Water Company (Iowa-American) attended the public hearing. Oral comments primarily concerned the proposed change in subrule 31.3(2) to increase the reporting threshold from \$50,000 to \$250,000. OCA recommended the threshold remain at \$50,000; Iowa-American recommended the threshold be increased to \$5 million; and MidAmerican and IPL supported the proposed increase to \$250,000.

During the written comment period, the Board received written comments from OCA, IPL, MidAmerican, and Iowa-American. OCA requested changes to subrules 31.3(1), 31.2(2), and 31.5(2), most of which the Board accepted. MidAmerican supported all the proposed amendments contained in the Notice and requested an additional change to subrule 31.3(4). IPL supported all the proposed changes in the Notice. Iowa-American requested the reporting threshold in subrule 31.3(2) be increased to \$5 million and took no position on all other proposed changes in the Notice.

Three substantive changes have been made from the Notice. First, in paragraph 31.3(1)“a,” the Board has stricken the modifier “new or revised” at OCA’s request and removed the requirement that a document number be included in an executive summary. Second, in subrule 31.3(2), the Board is retaining the “5 percent of the capital equity of the utility” language to address, in part, OCA’s filing threshold concerns. Third, at MidAmerican’s request, the Board is adding language in subrule 31.3(4) to exempt affiliates that do not conduct business with the public utility.

Adoption of Rule Making

This rule making was adopted by the Board on November 21, 2022.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

No waiver provision is included in the amendments because the Board has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the rules in Chapter 31.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on February 1, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend rule 199—31.1(476) as follows:

199—31.1(476) Applicability and definition of terms. This chapter applies to all rate-regulated gas, ~~or electric, water, sanitary sewage, or storm water drainage service~~ public utilities. All terms used in this chapter shall be defined as the terms are defined in Iowa Code section 476.72 unless further defined in this chapter.

“Fully distributed cost” is a costing approach that fully allocates all current and embedded costs to determine the revenue contribution of regulated and nonregulated affiliate operations.

“Net book value” means the original purchase price minus depreciation.

ITEM 2. Amend rule 199—31.3(476) as follows:

199—31.3(476) Annual filing.

31.3(1) On or before June 30 of each year, all public utilities shall file with the board the following information:

a. An executive summary of each ~~new or revised~~ contract, arrangement, or other similar transaction between the public utility and an affiliate. The executive summary shall include: ~~the document number,~~ the start and end date of the contract, the providing affiliate, the receiving affiliate, the total estimated dollar value, the dollar amount reported for the calendar year, and a description of the service or goods covered.

b. Verified copies of contracts, arrangements, or other similar transactions between the public utility and an affiliate shall be provided to the board upon request. This includes all contracts, arrangements, or other similar transactions as required by Iowa Code ~~subsections~~ sections 476.74(1) to 476.74(4).

31.3(2) Contracts, arrangements, or other similar transactions with an affiliate where the consideration is not in excess of ~~\$50,000~~ \$250,000 or 5 percent of the capital equity of the utility, whichever is smaller, are exempt from this filing requirement. In lieu of the filing requirement, the public utility shall file on or before June 30 of each year a report of the total amount of each contract,

arrangement, or other similar transactions with affiliates qualifying under this exemption. Each affiliate shall be identified separately.

31.3(3) After an initial filing under rule 199—31.3(476), a public utility shall file only new contracts or arrangements or other similar transactions and modifications or amendments to existing contracts or arrangements, or other similar transactions on an annual basis. If there have been no new contracts, arrangements, or other similar transactions, the public utility shall file a statement to that effect.

31.3(4) If a new affiliate is created, if an existing affiliate is dissolved or merged, if a contractual arrangement or other similar transactional relationship between the public utility and an affiliate is created, or if a contractual arrangement or other similar transactional relationship is terminated between the public utility and an affiliate, the public utility shall notify the board in writing within ~~30~~ 60 days of the date of the event. This subrule does not apply if a proposal for reorganization pursuant to 199—Chapter 32 is to be filed with the board or the affiliate does not conduct business with the public utility.

ITEM 3. Amend subrule 31.5(2) as follows:

31.5(2) Confidential treatment. When a public utility files contracts, arrangements, or other similar transactions with the board, all such contracts or arrangements for which confidential treatment is sought shall be clearly marked and are subject to 199—subparagraph 1.9(5)“c”(18). ~~In addition to the requirements set out in 199—1.9(22), the public utility shall provide, at the time of filing with the board, a list designating the contracts, arrangements, and other similar transactions, if any, for which confidential treatment is sought. The public utility shall designate where and to whom contracts, arrangements, and other similar transactions determined by the board to be confidential shall be returned.~~

[Filed 11/29/22, effective 2/1/23]

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/28/22.